

## **SUBCHAPTER M : WASTE TREATMENT INSPECTION FEE PROGRAM**

### **§305.501. Purpose.**

(a) It is the purpose of these sections to maintain the Waste Treatment Fee Program. Under this program, an annual fee is imposed on each permittee holding a permit or otherwise authorized to treat or discharge wastewater under the Texas Water Code, Chapter 26. All fees shall be deposited in a fund for the purpose of supplementing other funds appropriated by the legislature to pay the expenses of the commission in inspecting waste treatment facilities and enforcing the provisions of the Texas Water Code, Chapter 26, the rules and orders of the commission, and the provisions of commission permits governing waste discharges and waste treatment facilities.

(b) Upon the delegation of national pollutant discharge elimination system (NPDES) permit authority to the commission, the fees shall be used, in addition to the purposes specified in subsection (a) of this section for obtaining and administering the Texas pollutant discharge elimination system (TPDES) program.

### **§305.502. Definitions and Abbreviations.**

(a) Definitions. The definitions contained in the Texas Water Code, §26.001, shall apply herein. The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Annual waste treatment fee - A fee charged to each permittee holding a permit or otherwise authorized to treat or discharge wastewater under the Texas Water Code, Chapter 26.

(2) Biomonitoring - The determination of total (whole-effluent) toxicity of permitted discharges as required by and consistent with the provisions of required by and consistent with the provision of §307.1(d) of this title (relating to Toxic Materials).

(3) Commission - The Texas Natural Resource Conservation Commission.

(4) Flow limit - The maximum amount of wastewater discharge authorized during any term of the permit, expressed as a daily average flow, a daily maximum flow, an annual average or an annual maximum.

(5) Flow - The total by volume of all wastewater discharges authorized under a permit expressed as an average flow per day, a maximum flow per day, an annual average or an annual maximum, exclusive of variable or occasional stormwater discharges. Generally, the flow is based on the sum of the volumes of discharge for all outfalls of a facility, but excludes internal outfalls. However, for those facilities for which permit limitations on the volumes of discharge apply only to internal outfalls, the flow is based on the sum of the volumes of discharge for all internal outfalls of the facility, exclusive of variable or occasional stormwater discharges.

(6) Flow volume.

(A) Type I - These wastewaters include sanitary wastewater, process wastewater flows or any mixed wastewaters containing more than 10% process wastewaters;

(B) Type II - These wastewaters include non-contact cooling water or mixed flows which contain at least 90% non-contact cooling water and not more than one million gallons per day of process wastewater.

(7) Fund - The Water Quality Fund.

(8) Heat load parameter - The temperature limitation specified in a permit. For purposes of assessing the waste treatment fee, points are assigned according to the existence of a temperature limitation within a waste discharge permit.

(9) Inactive permit - A permit which authorizes a waste treatment facility, but where the facility itself is not yet operational or where operation has been suspended.

(10) Land application/evaporation permit - A permit which does not authorize the discharge of wastewaters into surface waters in the state. These permits include but are not limited to permits for evaporation ponds and irrigation systems.

(11) Major permit - A permit designated as a major permit, in conformance with applicable EPA guidance documents, by either EPA or the commission and subject to provisions of NODES or TPDES permit authority, respectively.

(12) Parameter - A variable which defines a set of physical properties whose values determine the characteristics of a waste discharge. Those parameters to be considered under the waste treatment facility fee are:

(A) pollutant potential;

(B) flow volume;

(C) biochemical oxygen demand (BOD)/chemical oxygen demand (COD)/total organic carbon value;

(D) total suspended solids (TSS) value;

(E) ammonia value;

(F) heat load; and

(G) major/minor designation.

(13) Payment - Receipt by the commission of the full amount of the annual waste treatment fee.

(14) Permit - Any permit issued by the Texas Natural Resource Conservation Commission under authority of the Texas Water Code, Chapter 26, including those permits issued under the authority of both the Texas Water Code, Chapter 26, and other statutory provisions (such as the Health and Safety Code, Chapter 361). For the purpose of this subchapter, the term "permit" shall include any other authorization for the treatment or discharge of wastewater, including permits by rule.

(15) Pollutant potential - A rating assigned to a permit based on:

(A) for industrial permits, the source(s) of wastewater, the Standard Industrial Classification of the facility and the specific type of operation; or

(B) for domestic permits, and authorized flow of greater than 1.0 MGD and/or the existence of biomonitoring requirements or toxic numerical discharge limits.

(16) Report only permit - A permit which authorizes the variable or occasional discharge of wastewaters with a requirement that the volume of discharge be reported but without any limitation on the volume of discharge.

(17) Stormwater outfall or permit - A permit or outfall(s) which authorizes the variable or occasional discharge of accumulated stormwater and stormwater runoff, but without any specific limitation on the volume of discharge.

(18) Toxicant numerical limit - A permit discharge limit established for any toxicant identified or otherwise defined in accordance with the provisions of §307.6 of this title (relating to Toxic Materials).

(19) Traditional pollutants - The wastewater parameters typically found in wastewater discharge permits, specifically BOD/COD/TOC, TSS and ammonia. For purposes of assessing the waste treatment fee, points are assigned to these parameters if they are included in a permit.

(b) Abbreviations. The following abbreviations apply to these sections.

(1) BOD - Biochemical oxygen demand.

(2) COD - Chemical oxygen demand.

(3) MGD - Million gallons per day.

(4) Mg/l - Milligrams per liter -- All limits measured in mg/l are converted to pounds per day (lb/day) using the following conversion: mg/l multiplied by the flow volume in MGD multiplied by 8.34 equals lb/day.

(5) SIC - Standard Industrial Classification(s) assigned to a facility generating wastewater.

(6) TNL - Toxicant numerical limit.

(7) TOC - Total organic carbon.

(8) TSS - Total suspended solids

**§305.503. Fee Assessment.**

(a) An annual waste treatment fee is assessed against each person holding a permit or other authorization issued under the authority of the Water Code Chapter 26. The amount of the fee is determined by specific permit parameters for which a facility is authorized as of each September 1. The maximum fee which may be assessed each permit is \$11,000, except that for Texas Pollutant Discharge Elimination Systems (TPDES) permits, the maximum fee which may be assessed is \$25,000.

(b) In assessing a fee, the commission may consider the following parameters for each permit

(1) pollutant potential;

(2) flow volume;

(3) traditional pollutants;

(4) heat load;

(5) major/minor designation;

(6) the designated uses and ranking classification of waters affected by waste discharges;

and

(7) the costs of obtaining and administering the Texas pollutant discharge elimination system program, upon delegation by the Environmental Protection Agency (EPA).

(c) Except as provided in subsections (g) and (j) of this section, the commission shall assign a point value to each of the permit parameters in subsection (b) of this section. The assigned value(s) shall be weighted according to the specific permit limits and the weighted values summed. The sum of the variable point values under subsection (f) of this section and the set values established under subsection (g) of this section are multiplied by the current fee rate under subsection (h) of this section to determine the fee to be assessed.

(d) For the purpose of fee calculation, COD and TOC are converted to BOD values and the higher value is assessed points. The conversion for TOC is: three pounds of TOC is equal to one pound of BOD (3:1). The conversion for COD is eight pounds of COD is equal to one pound of BOD (8:1).

(e) For the purpose of fee calculation, a permit which authorizes a secondary treatment system consisting of ponds or lagoons at limits of 30 mg/l BOD and 90 mg/l TSS shall be assumed to be equivalent to 20 mg/l BOD and 20 mg/l TSS. This equivalency is based on treatment provided by different types of secondary treatment systems.

(f) Fee rate schedule. Except as provided in subsection (g) of this section, each permit shall be assessed a fee based on the specific parameters assigned to the permit and determined by the following schedule. Each permit shall be reviewed to determine the individual values for the parameters covered by this schedule:

(1) Pollutant potential.

(A) Industrial discharges.

Group I = 2 Points

Group II = 10 Points

Group III = 15 Points

Group IV = 20 Points

Group V = 30 Points

Group VI = 40 Points

(B) Domestic discharges.

Points                      Group I (< 1.0 mgd, no biomonitoring or toxicant numerical limit) = 2

10 Points                      Group II ( $\geq 1$  mgd and/or biomonitoring, but no toxicant numerical limit) =

Group III (toxicant numerical limit) = 15 Points

(C) Evaporation/land application permits with a toxic rating of I will be assessed only one point for pollutant potential.

Pollutant Potential Points = \_\_\_\_\_

(2) Flow volume.

(A) Type I:

$\leq .05$  mgd = 4 points

$> .05$  but  $\leq .25$  = 7 points

$> .25$  but  $\leq 2$  = 14 points

$> 2$  but  $\leq 4$  = 28 points

$> 4 \text{ but } \leq 6 = 46 \text{ points}$

$> 6 = 72 \text{ points}$

(B) Type II:

$\leq 1 \text{ mgd} = 3 \text{ points}$

$> 1 \text{ but } \leq 5 = 10 \text{ points}$

$> 5 \text{ but } \leq 10 = 20 \text{ points}$

$> 10 \text{ but } \leq 50 = 30 \text{ points}$

$> 50 \text{ but } \leq 500 = 40 \text{ points}$

$> 500 \text{ mgd} = 50 \text{ points}$

Flow Volume Points = \_\_\_\_\_

(3) Traditional pollutants.

(A) Oxygen demand (COD and TOC limits are converted to BOD values and the higher value is used.)

$\leq 50 \text{ lb/day} = 1 \text{ point}$

$> 50 \text{ but } \leq 100 = 5 \text{ points}$

$> 100 \text{ but } \leq 250 = 10 \text{ points}$

$> 250 \text{ but } \leq 500 = 20 \text{ points}$

$> 500 \text{ but } \leq 750 = 30 \text{ points}$

$> 750 \text{ but } \leq 1000 = 40 \text{ points}$

$> 1000 \text{ but } \leq 3000 = 60 \text{ points}$

$> 3000 \text{ lb/day} = 80 \text{ points}$

Oxygen Demand Points = \_\_\_\_\_

(B) Total suspended solids.

$\leq 50 \text{ lb/day} = 1 \text{ point}$

$> 50 \text{ but } \leq 100 = 5 \text{ points}$

$> 100 \text{ but } \leq 250 = 10 \text{ points}$

$> 250 \text{ but } \leq 500 = 20 \text{ points}$

$> 500 \text{ but } \leq 750 = 30 \text{ points}$

$> 750 \text{ but } \leq 1000 = 40 \text{ points}$

$> 1000 \text{ but } \leq 3000 = 60 \text{ points}$

$> 3000 \text{ lb/day} = 80 \text{ points}$

Total Suspended Solids = \_\_\_\_\_

(C) Ammonia.

$\leq 250 \text{ lb/day} = 0 \text{ points}$

$> 250 \text{ but } \leq 500 = 10 \text{ points}$

$> 500 \text{ but } \leq 1000 = 20 \text{ points}$

$> 1000 \text{ but } \leq 3000 = 30 \text{ points}$

$> 3000 \text{ lb/day} = 40 \text{ points}$

Ammonia Points = \_\_\_\_\_

(4) Heat load. If heat loading parameter is not present = 0 points

If heat loading parameter is present = 10 points

Heat Load Points = \_\_\_\_\_

(5) Major/minor designation.

EPA minor facility = 0 points

EPA major facility = 10 points

Major Facility Points = \_\_\_\_\_

(g) Set point permits. The following fees are assessed for permits to which the parameters under subsection (f) of this section are not applicable:

(1) Evaporation/land application permits.

Industrial Discharges = 5 points

Domestic Discharges

< .1 mgd = 4 points

≥ .1 mgd = 10 points

(2) Report only or stormwater outfall(s) and permits -- 12 points. Stormwater permit outfalls for which flow discharge parameters have been established shall be assessed a fee under subsection (f) of this section. Set Points = \_\_\_\_\_.

(h) The annual fee to be assessed is calculated by multiplying the total points determined under subsection (f) and (g) of this section by the rate of \$75 per point. Permits having both process wastewater discharges assessed under subsection (f) of this section and stormwater discharges assessed under subsection (g) of this section shall be assessed the total of the fees determined under the respective subsections, not to exceed the maximum fee under subsection (a) of this section.

(i) The fee assessed an inactive permit shall be 50% of that calculated under subsection (f) and subsection (g) of this section. In no event shall the fee for an inactive permit be less than \$150 per year.

(j) Upon delegation of the National Pollutant Discharge Elimination System, a fee shall be determined by multiplying the base fee provided by subsection (c) of this section by a factor not to exceed 2.3. The minimum fee shall not be less than \$150 more than the pre-existing fee. This subsection shall not apply to domestic wastewater treatment facilities or confined/concentrated animal feeding operations until August 31, 1999.

Adopted May 10, 1996

Effective June 9, 1996

**§305.504. Fee Payment.**

Annual waste treatment fees are payable within 30 days of the billing date each year for all permittees. Fees shall be paid by check, certified check or money order payable to the Texas Natural Resource Conservation Commission. New permits will require full payment of the appropriate fee within 30 days of the billing date, and thereafter will be assessed an annual waste treatment fee under the schedule set forth herein, beginning with the next regular billing date. All fee assessments are to be based on the permitted parameters (interim or final) specified in the permit, without regard to the actual quality of effluent that the permitted facility is discharging. Where the parameters authorized for a permitted facility change to a higher interim level or to the final level authorized by the permit, the revised fee, if any, will be assessed at the next regular payment date following the change in authorized limits. If a permit is amended to authorize lesser or greater parameters, the revised fee will be assessed at the next regular payment date following the final order of the Texas Natural Resource Conservation Commission effecting the amendment. Fees are payable regardless of whether the permitted facility actually is constructed or in operation.

**§305.505. Fund.**

All fees collected under this waste treatment fee program are to be deposited in the water quality fund. The fund shall be managed in accordance with §305.501 of this title (relating to Purpose).

**§305.506. Cancellation, Revocation and Transfer.**

Cancellation or revocation of a permit, whether by voluntary action on the part of the permittee or as a result of involuntary proceedings initiated by the commission, will not constitute grounds for a refund, in whole or in part, of any fee already paid by the permittee. Transfer of a permit will not entitle the transferor permittee to a refund, in whole or in part, of any fee already paid by that permittee. Any permittee to whom a permit is transferred shall be liable for payment of the annual fee assessed for the permitted facility on the same basis as the transferor of the permit.

**§305.507. Failure to Make Payment.**

(a) Failure to make payment in accordance with this subchapter constitutes a violation subject to enforcement pursuant to the provisions of Water Code §26.123.

(b) Owners or operators of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(c) Interest or penalties collected by the commission under this section shall be deposited to the water quality fund.

Adopted January 22, 1997

Effective February 14, 1997